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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/538,207	06/09/2005	Declan P Kelly	NL021342	3570

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EXAMINER

NGUYEN, MY XUAN

ART UNIT	PAPER NUMBER
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2617

MAIL DATE	DELIVERY MODE
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06/04/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/538,207	Applicant(s) KELLY ET AL.	
	Examiner My X. Nguyen	Art Unit 2617	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 March 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-32 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-32 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

This action is in response to applicant's amendment filed on 03/15/2007. Claims 1-32 are now pending in the present application. This action is made **final**.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

1. Claims 1-32 are rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent Publication 2002/0156909 A1 (Harrington).

Regarding claims 1, 7, 15, 16, 26 and 28, Harrington discloses the claimed:

a portable wireless device (i.e., client device, Fig. 8 Element 806, ¶s [0016] & [0034]), the wireless device having a media drive (i.e., CD-ROM, DVD, CD, memory stick, ¶s [0014], [0037] & [0043]) and an application (i.e., Flash player, ¶s [0020] & [0034]) that reads and plays back content from a medium inserted in the media drive (¶s [0014], [0037] & [0043]);

a service that communicates with the wireless device (i.e., client device, Fig. 1 Element 112) via a wireless network (i.e., network, Fig. 1 Element 120), the service providing control commands to the application program for controlling playback of content from the medium when inserted in the media drive (i.e., server-side control of a Flash movie playing on a client device, ¶ [0015]).

Regarding claim 2, Harrington discloses the claimed wireless device is a mobile phone (i.e., wireless telephone, ¶ [0042]).

Regarding claims 3, 8 and 27, Harrington discloses the claimed media drive is one selected from the group of optical disc drive, magnetic disc drive and a flash memory card interface (i.e., VHS or Beta tape, CD-ROM, DVD, CD or memory stick, ¶ [0014]).

Regarding claims 4 and 17, Harrington discloses the claimed service is provided from a website that interfaces with the wireless network via the Internet (¶ [0014])

Regarding claims 5, 10, 19, 22 and 29, Harrington discloses the claimed control commands provided by the service control at least one of the selection and order of content played back from the medium (i.e., server-side control of a Flash movie playing on a client device, ¶ [0015]).

Regarding claims 6, 11-14, 23, 31 and 32, Harrington discloses the claimed service downloads advertisements to the wireless device and also provides control commands to the application to play the advertisements along with the playback of content from the medium (i.e., advertising is created and delivered in a targeted and individualized manner and allows customers to make more informed choices and spontaneous choices, ¶ [0017]).

Regarding claim 9, Harrington discloses the claimed medium contains at least one of audio content and video content (i.e., Flash movies, ¶ [0043]).

Regarding claims 18 and 30, Harrington discloses the claimed control commands are generated using an identification of the content of the medium received by the services from the portable wireless device (i.e., playlist timeline and associated commands are related to a programming signal in order to synchronize the Flash movie on a client device with the programming signal, ¶ [0053]).

Regarding claims 20, 21, 24 and 25, Harrington discloses the claimed control commands are generated using an identification of the user received by the service from the portable wireless device (i.e., a user may *subscribe* to a stock-ticker data feed, ¶ [0071]).

Response to Arguments

2. Applicant's arguments filed 03/15/2007 have been fully considered but they are not persuasive.

3. Regarding Applicant's argument that:

...these teachings do not address a media drive on a portable device, nor an application that controls such a media drive, nor a service that controls the playback of content from medium inserted in such a media drive (Applicant's Remarks, Page 8). ...the Office Action fails to identify where Harrington teaches a portable wireless device with a media player, and fails to teach controlling the play back of a medium that is inserted in the media player via commands from a remote server. (Applicant's Remarks, Page 9)

Examiner disagrees. Harrington discloses a client device provides capabilities of retrieving Flash movies located locally (§ [0043]), wherein Flash movies may reside on a VHS or Beta tape, CD-ROM, DVD, CD or memory stick (§ [0014]). The local retrieval of Flash movies from a plurality of possible storage medium implies the client device inherently comprises a media drive. The client device also comprises a Flash player (§s [0020] & [0042]), understood as the claimed application that reads and plays back content from a medium inserted in the media drive. Furthermore, Harrington discloses

providing server-side control of a Flash movie playing on a client device (§ [0015]), understood as the claimed service providing control commands to the application program for controlling playback of content from the medium when inserted in the media drive.

Conclusion

4. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to My X. Nguyen whose telephone number is (571) 272-2835. The examiner can normally be reached on Monday through Friday at 8:00AM to 4:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Duc Nguyen can be reached on (571) 272-7503. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

M.X.N.
05/17/2007



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